



1Fm 1651

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Murali Nayudu et al
Serial No. : 09/890,306
Filed : October 25, 2001
Title : A METHOD OF CONTROLLING FUNGAL PATHOGENS, AND AGENTS
USEFUL FOR SAME

Art Unit : 1651
Examiner : Vera Afremova

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT DATED OCTOBER 21, 2005

In response to the Office Action mailed October 21, 2005 ("Office Action"), Applicants elect, with traverse, species (1) drawn to a naturally occurring mutant of *Pseudomonas* strain AN5 including AN5rif, as covered by claims 25, 76, 90, 91, 100, 101, 103, 104, 107, 108, 111, and 112.

The Examiner asserts that the genetically engineered mutant of *Pseudomonas* strain AN5 of claims 26, 27, 105, 106, 109, and 110, and the naturally occurring mutant of the above-elected claims do not relate to a single general inventive concept under PCT Rule 13.1, as they lack the same or corresponding technical features. See the Office Action, page 3, lines 16-18.

Applicants respectfully disagree. In particular, both the naturally occurring and genetically engineered *Pseudomonas* AN5 strains feature enhanced production of sugar acid, which serves to augment their antifungal activity. As such, they share a "special technical feature," and thus form a "single general inventive concept" within the meaning of PCT Rules 13.1 and 13.2; and 37 CFR § 1.475(a). Applicants therefore respectfully request withdrawal of the restriction requirement.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

January 23, 2006

Date of Deposit

Signature

Debbie Nast

Typed or Printed Name of Person Signing Certificate

Applicant : Murali Nayudu et al
Serial No. : 09/890,306
Filed : October 25, 2001
Page : 2 of 2

Attorney's Docket No.: 13377-
002001 / 736811US:ANB:VNB

Enclosed is a \$225 check for a petition of a two month extension of time . Please apply any other charges to deposit account 06-1050, referencing attorney docket No. 13377-002001.

Respectfully submitted,

Date: 1-23-06

Y. Rocky Tsao
Y. Rocky Tsao, Ph.D., J.D.
Attorney for Applicants
Reg. No. 34,053

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906